

James Cai (SBN: 200189)  
*jcai@sacattorneys.com*  
Brian A. Barnhorst (SBN: 130292)  
*bbarnhorst@sacattorneys.com*  
Patrick E. O'Shaughnessy (SBN: 218051)  
*poshaughnessy@sacattorneys.com*  
Woody Wu (SBN: 309317)  
*wwu@sacattorneys.com*  
SAC ATTORNEYS LLP  
1754 Technology Drive, Suite 122  
San Jose, CA 95110  
Telephone: (408) 436-0789

Jingjing Ye (Admitted *Pro Hac Vice*)  
*jye@yefirm.com*  
YE & ASSOCIATES, P.C.  
500 N. Central Expy, #500  
Plano, TX 75080  
Telephone: (469) 410-5232

*Attorneys for Temujin Labs Inc. (Delaware)*  
*Temujin Labs Inc. (Cayman Islands), Lily Chao,*  
*and Damien Ding*

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

ARIEL ABITTAN,

Plaintiff,

v.

LILY CHAO et al.,

Defendants.

Case No. 21-CV-09340-NC

**[PROPOSED] ORDER RE: RULE  
41(a)(2) MOTION TO DISMISS  
WITHOUT PREJUDICE**

Judge: Hon. Nathanael Cousins

Filed: December 24, 2020

[PROPOSED] ORDER RE: RULE 41(a)(2) MOTION TO DISMISS

**[PROPOSED] ORDER**

This matter came before the Court on Plaintiff's Rule 41(a)(2) motion to dismiss his case voluntarily without prejudice (the "Motion"). The Court considered Plaintiff's Motion, reply, and supporting papers, Defendants' opposition and supporting papers, and other materials on file with the Court in the above-captioned matter. In light of the foregoing, and in the exercise of its discretion, the Court DENIES the Motion and ORDERS that the case be DISMISSED:

- WITH PREJUDICE.
- WITHOUT PREJUDICE but with the following conditions to protect Defendants:
  - Plaintiff must respond to Temujin's pending and ripe party discovery requests, following the prompt submission and entry of the parties' negotiated proposed protective order, as potentially modified by the Court.
  - Temujin may amend its complaint in the Translucence Case to focus on its Federal Defend Trade Secret Act claims, proceed immediately with all forms of discovery in that case before this Court, and make use in that case of the pending discovery at issue in this case.
  - Plaintiff must promptly pay any duplicative fees and costs Temujin may incur in litigation in other cases because of Plaintiff's Motion in this case.
  - If Plaintiff re-files this lawsuit, or any lawsuit based on the same operative facts, he must, for the sake of efficiency, do so in the Northern District of California and consent to proceed before the Hon. Nathanael Cousins.
  - If Plaintiff does not meet all of the Court's conditions for dismissal without prejudice, then this case and all of his future claims against Temujin based on the same operative facts are hereby or shall be ORDERED DISMISSED WITH PREJUDICE.

IT IS SO ORDERED.

Dated: July \_\_, 2023

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Hon. Nathanael Cousins

[PROPOSED] ORDER RE: RULE 41(a)(2) MOTION TO DISMISS